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7

8 **BEFORE THE**
9 **BOARD OF ACCOUNTANCY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation) NO. AC-95-28
Against:)
12)
RUSSELL PONCE) DEFAULT DECISION AND
13 1275 Fourth Street Suite 640) ORDER OF THE BOARD
Santa Rosa, CA 95404)
14)
Certified Public Accountant) [Gov. Code §11520]
15 Certificate No. 11995,)
Respondent.)
16)
17

18 **STATUTES**

19 1. The California State Board of Accountancy,
20 Department of Consumer Affairs ("Board"), is authorized to revoke
21 respondent's Certified Public Accountant Certificate pursuant to
22 section 5100 of the California Business and Professions Code,
23 which provides that the Board may revoke, suspend or refuse to
24 renew any permit or certificate issued by the Board.

25 2. California Government Code section 11506(b)
26 provides, in pertinent part, that the "respondent shall be
27 entitled to a hearing on the merits if he files a notice of

1 defense, and any such notice shall be deemed a specific denial of
2 all parts of the accusation not expressly admitted. Failure to
3 file such notice shall constitute a waiver of respondent's right
4 to a hearing, but the agency in its discretion may nevertheless
5 grant a hearing..."

6 3. California Government Code section 11520(a)
7 provides, in pertinent part, that "If the respondent fails to
8 file a notice of defense or to appear at the hearing, the agency
9 may take action based upon the respondent's express admissions or
10 upon other evidence and affidavits may be used as evidence
11 without any notice to respondent..."

12 4. Business and Professions Code section 5100
13 provides for discipline based upon unprofessional conduct,
14 including gross negligence in the practice of public accounting
15 [Sec. 5100(c)].

16 5. Section 5107 provides, in part, that the Board may
17 request the administrative law judge, as part of the proposed
18 decision in a disciplinary proceeding, to direct any holder of a
19 permit or certificate found in violation of section 5100(c) to
20 pay to the Board all reasonable costs of investigation and
21 prosecution of the case, including, but not limited to,
22 attorney's fees.

23 6. Under California Business and Professions Code
24 section 118, the suspension, expiration, or forfeiture by
25 operation of law of a license issued by the board, or its
26 suspension, forfeiture, or cancellation by order of the board or
27 by order of a court of law, or its surrender without the written

1 consent of the board, shall not, during any period in which it
2 may be renewed, restored, reissued, or reinstated, deprive the
3 board of its authority to institute or continue a disciplinary
4 proceeding against the licensee upon any ground provided by law
5 or to enter an order suspending or revoking the license or
6 otherwise taking disciplinary action against the license on any
7 such ground.

8 JURISDICTION AND FINDINGS OF FACT

9 Jurisdiction

10 7. On or about October 16, 1965, Certified Public
11 Accountant Certificate No. 11995 was issued by the Board to
12 Russell Ponce ("respondent"). The certificate expired on
13 September 1, 1993, because the renewal fee was not paid and
14 evidence of compliance with continuing education regulations was
15 not submitted.

16 8. On or about March 26, 1996, Complainant Carol B.
17 Sigmann, in her official capacity as Executive Officer of the
18 Board, filed Accusation No. AC-95-28 against Russell Ponce. A
19 copy of the Accusation is attached hereto as Annex A and
20 incorporated herein as though fully set forth.

21 9. On or about April 12, 1996, Patricia Mota, an
22 employee of the Office of the Attorney General, sent by regular
23 mail a copy of Accusation No. AC-95-28, Statement to Respondent,
24 Government Code sections 11507.5, 11507.6, and 11507.7, the
25 Notice of Defense form, and a Request for Discovery, to
26 respondent's address of record with the Board, which was and is
27 1275 Fourth Street, Suite 640, Santa Rosa, CA 95404. In or

1 about April 1996, the aforementioned documents were returned to
2 the Office of the Attorney General marked "Return to Sender" by
3 the U.S. Postal Service.

4 On or about April 26, 1996, Ms. Mota again served the
5 above-described "accusation package" by mailing it to respondent
6 at the above-described address of record by certified mail. In
7 or about May 1996, the aforementioned documents were returned to
8 the Office of the Attorney General marked "Unclaimed" by the U.S.
9 Postal Service. On or about May 22, 1996, the "accusation
10 package was mailed by certified mail to respondent at another
11 address of respondent known to the Board, 2419 Tamarisk Drive,
12 Santa Rosa, CA 94505. The green Domestic Return Receipt was
13 returned by the USPS to the Office of the Attorney General, and
14 in the box marked "Signature (Addressee or Agent)" appears
15 respondent's signature.

16 The above-described service was effective as a matter
17 of law pursuant to the provisions of California Government Code
18 section 11505, subdivision (c).

19 10. Respondent has failed to file a Notice of Defense
20 within 15 days after service upon him of the Accusation and
21 therefore waived his right to a hearing on the merits of
22 Accusation No. AC-95-28.

23 Findings of Fact

24 Pursuant to its authority under Government Code section
25 11520, and based on the evidence before it, the Board finds that:

26 11. Respondent performed an audit for American Capital
27 Holding Corporation (formerly American Entertainment Venture

1 Corp., hereinafter "American Capital") for the six month period
2 ended December 31, 1990, and for Union Pacific Fire & Marine
3 Insurance Company, Ltd. (hereinafter "Union Pacific") for the six
4 month period ended December 31, 1990.

5 12. American Capital was organized under the laws of
6 the state of Nevada in August 1983. Union Pacific was organized
7 under the laws of the Territory of the British Virgin Islands on
8 September 27, 1988, and began doing business in the United States
9 in December 1989. American Capital acquired Union Pacific on
10 April 1, 1990.

11 13. American Capital presents its financial statements
12 on a consolidated basis, with 90% of the assets attributable to
13 Union Pacific.

14 14. With regard to certain assets presented in the
15 financial statements, the value and ownership of the assets were
16 questionable. The single largest item on both sets of financial
17 statements is Marketable Securities recorded at \$5 million. The
18 transaction is described in the notes to the financial statements
19 as a capital contribution of 5,000,000 shares of newly issued
20 preferred stock from American Capital (parent) to Union Pacific
21 (subsidiary). Union Pacific then exchanged the parent company
22 stock for the marketable securities.

23 15. The audit file contained two facsimile
24 confirmations of a \$5 million investment, both headed "Environtec
25 Inc." (Environtec is one of the investments in the marketable
26 securities portfolio). One facsimile confirms the quantity of
27 stocks and the \$5 million or greater market value of the

1 portfolio. The facsimile appears to be from a related party,
2 Allen Broughton. The other facsimile confirms the per share
3 value of the stocks in the portfolio. The faxed confirmations
4 raise questions regarding the credibility of the confirmations.
5 The materiality of these investments affects the level of
6 reliance that an auditor places on the confirmations.

7 16. The auditor used NASDAQ statistics to substantiate
8 the per share value of two of the stocks (that together represent
9 79% of the \$5 million investment). The test was of little value,
10 given the thinly traded nature of the shares involved. In
11 addition, a "going concern" issue was raised in the SEC form 10-K
12 for UsAsia International Publications, Inc. (one of the
13 investments).

14 17. The agreement between American Capital and the
15 Kendrick Trust entitled "Capitalization Agreement - American
16 Capital" reflects that the marketable securities would be
17 purchased by American Capital and would be available for the
18 benefit of Union Pacific. The agreement states that American
19 Capital will issue 5,000,000 shares of its preferred stock to the
20 Hartford Investment Fund II as consideration for the marketable
21 securities, which appear to be owned by American Capital, not
22 Union Pacific.

23 18. Kendrick Trust and/or Allen Broughton, Trustee,
24 are related parties to the entities under audit.

25 19. The \$5 million investment was not an arms-length
26 transaction.

27 20. Union Pacific exceeded the limitations imposed by

1 the California Insurance Code on these (inherently unpredictable)
2 types of investments by \$4,452,604, and, on June 10, 1991, the
3 California Department of Insurance issued an order to the Surplus
4 Line Association of California not to place any new or renewal
5 business with this nonadmitted insurer.

6 21. Respondent was grossly negligent in the
7 performance of the audit of American Capital for the six months
8 ended December 31, 1990, which represents an extreme departure
9 from the standard of practice of public accountancy because of
10 various departures from Generally Accepted Auditing Standards
11 ("GAAS"). The departures from GAAS include, but are not limited
12 to, the following:

13 A. The audit working papers fail to document any
14 planning for the audits.

15 B. The audit working papers fail to document the
16 auditor's understanding of internal control structure and the
17 assessed level of control risk.

18 C. The auditor failed to perform analytical
19 procedures in the planning and overall review stages of his
20 audit.

21 D. The auditor failed to obtain sufficient competent
22 evidential matter to afford a reasonable basis for an opinion
23 regarding the financial statements under audit.

24 E. The auditor failed to exercise due professional
25 care in that he did not meet the three standards applicable to
26 field work, which require planning, evaluation of internal
27 control, and sufficient competent evidential matter.

1 22. Respondent was grossly negligent in the
2 performance of the audit of Union Pacific for the six months
3 ended December 31, 1990, which represented an extreme departure
4 from the standard of practice of public accountancy because of
5 various departures from GAAS which include, but are not limited
6 to, the following:

7 A. The audit working papers fail to document any
8 planning of the audit.

9 B. The audit working papers fail to document the
10 auditor's understanding of internal control structure and the
11 assessed level of control risk.

12 C. The auditor failed to perform analytical
13 procedures in the planning and overall review stages of his
14 audit.

15 D. The auditor failed to obtain sufficient competent
16 evidential matter to afford a reasonable basis for an opinion
17 regarding management's representations regarding the valuation,
18 ownership, presentation and disclosure of the \$5 million
19 investment embodied in the financial statements under audit in
20 that management's assertions regarding the valuation, ownership,
21 presentation, and disclosure of the \$5 million investment were
22 not objectively evidenced in the working papers. The auditor
23 failed to consider the proper recording of the stock transaction
24 (the exchange of equity for marketable securities, valued at \$5
25 million) as required by Generally Accepted Accounting Principles
26 ("GAAP"). The auditor failed to consider the impact of
27 transactions by apparently related parties.

1 E. The auditor failed to obtain sufficient competent
2 evidential matter to afford a reasonable basis for an opinion
3 regarding management's representations regarding premiums
4 receivable embodied in the financial statements under audit.
5 Management's assertion that there exist \$1,437,752 in premiums
6 receivable (an amount which represents 16% of the company's total
7 assets) is not authenticated in the workpapers. The file
8 contains facsimile copies of confirmations for \$1,315,312 of the
9 total premiums receivable balance. There is no authentication of
10 the existence of agencies to collect such premiums, nor do the
11 workpapers document any consideration of independence,
12 credibility, or the possibility of irregularities.

13 F. The auditor failed to consider the entity's
14 ability to continue as a going concern.

15 G. The auditor failed to exercise due professional
16 care in that he did not meet the three standards applicable to
17 field work, which require planning, evaluation of internal
18 control, and sufficient competent evidential matter, and failed
19 to exercise an appropriate level of professional skepticism in
20 his conduct of the audit.

21 23. Respondent was specifically and repeatedly
22 notified, at an address obtained from the United States Postal
23 Service, of his lack of compliance with the Board's change of
24 address requirement.

25 24. Respondent failed to file a change of address with
26 the Board from the date of the first notification referenced in
27 paragraph 23, that is, October 14, 1993, until July 1, 1994, a

1 period of more than eight months.

2 25. At the time of this decision, the Board's costs of
3 investigation and prosecution of this matter are \$12,673.50.

4 **DETERMINATION OF ISSUES**

5 1. Respondent is subject to disciplinary action
6 pursuant to section 5100 of the California Business and
7 Professions Code as established in the jurisdictional findings
8 in paragraphs numbers 7 through 10, above.

9 2. Respondent is subject to disciplinary action
10 pursuant to section 5100(c) of the California Business and
11 Professions Code on the grounds of gross negligence in his audit
12 of American Capital, by reason of the Findings of Fact numbers 11
13 through 21, above, and cause for revocation has been established.

14 3. Respondent is subject to disciplinary action
15 pursuant to section 5100(c) of the California Business and
16 Professions Code on the grounds of gross negligence in his audit
17 of Union Pacific, by reason of the Findings of Fact numbers 11
18 through 20, and number 22, above, and cause for revocation has
19 been established.

20 4. Respondent is subject to disciplinary action
21 pursuant to Board Rule 3 in conjunction with section 5100(f) of
22 the California Business and Professions Code for the wilful
23 violation of a Board Rule, by reason of the Findings of Fact
24 numbers 23 and 24, above, and cause for revocation has been
25 established.

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27 ///

1 ORDER OF THE BOARD OF ACCOUNTANCY

2 Certified Public Accountant Certificate number 11995,
3 heretofore issued to respondent Russell Ponce, is hereby revoked.
4 An effective date of September 7, 1996, has been assigned
5 to this Order.

6 Pursuant to California Government Code section 11520,
7 subdivision (b), respondent is entitled to make any showing by
8 way of mitigation; however, such showing must be made in writing
9 to the Board of Accountancy, 2000 Evergreen Street, Suite 250,
10 Sacramento, California 95815, prior to the effective date of this
11 decision.

12
13 Made this 7th day of August, 1996.

14 

15 _____
16 Robert J. Shackleton, President
17 Board of Accountancy
Department of Consumer Affairs

18 JCW:pam
19 (6/11/96)
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ANNEX A

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 JEANNE COLLETTE WERNER
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3 Department of Justice
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8 BEFORE THE
BOARD OF ACCOUNTANCY
9 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA
10

11 In the Matter of the Accusation) NO. AC-95-28
Against:)
12)
RUSSELL PONCE) ACCUSATION
13 1275 Fourth Street, Suite 640)
Santa Rosa, CA 95404)
14)
Certified Public Accountant)
15 Certificate No. 11995)
16 Respondent.)
17

18 Complainant Carol Sigmann, as cause for disciplinary
19 action, alleges:

20 1. Complainant is the Executive Officer of the
21 California Board of Accountancy ("Board") and makes and files
22 this accusation solely in her official capacity.

23 LICENSE INFORMATION

24 2. On or about October 16, 1965, Certified Public
25 Accountant Certificate No. 11995 was issued by the Board to
26 Russell Ponce ("respondent"). The certificate expired on
27 September 1, 1993, because the renewal fee was not paid and

1 evidence of compliance with continuing education regulations was
2 not submitted.

3 STATUTES AND REGULATIONS

4 3. At all times material herein, section 5100 of the
5 California Business and Professions Code (hereinafter "Code") has
6 provided in pertinent part that "(a)fter notice and hearing, the
7 Board may revoke, suspend or refuse to renew any permit or
8 certificate" issued by the Board for unprofessional conduct,
9 including but not limited to:

10 5100 (c) Dishonesty, fraud, or gross negligence in the
11 practice of public accountancy.

12 5100 (f) Willful violation of the Accountancy Act or any
13 rule or regulation promulgated by the board.

14 4. The Board's regulations, codified in Title 16 of
15 the California Code of Regulations, provide, in Section 3 that it
16 is mandatory for every permit holder to file, in writing, with
17 the Board at the time of the payment of his or her renewal fee
18 his or her address and business connections and to notify the
19 Board, in writing, within 30 days of any change thereof occurring
20 during the renewal period.

21 5. Applicable standards of practice pertinent to this
22 accusation include, without limitation:

23 a. Generally Accepted Auditing Standards
24 ("GAAS"), which standards are discussed, as relevant herein,
25 in the Statements on Auditing Standards ("SAS") codified by
26 the American Institute of Certified Public Accountants
27 (AICPA). The statements are codified by AU number. The

1 sections pertinent herein include, without limitation: AU §
2 230; AU § 311; AU § 316.16; AU §§ 319, 319.26 & 319.39; AU §
3 326; AU §§ 329.01, 329.06, & 329.22; AU §§ 339 & 339.05; and
4 AU § 341.02.

5 b. Generally Accepted Accounting Principles
6 ("GAAP"), derived from various authoritative sources,
7 including, without limitation:

8 1. Statements of Financial Accounting Standards
9 ("FAS" or "FASB"), issued and codified by the Financial
10 Accounting Standards Board (also "FASB"). The sections
11 pertinent herein include, without limitation, FASB
12 Current Text, B50.645 (Transfers and Exchanges between
13 Enterprises under Common Control).

14 2. Opinions ("APB") issued by the Accounting
15 Principles Board (also "APB", a predecessor of FASB).
16 The opinions pertinent herein include, without
17 limitation, APB 29.

18 6. Code section 5107 provides for recovery by the
19 Board of all reasonable costs of investigation and prosecution of
20 the case, including, but not limited to, attorney's fees in
21 specified disciplinary actions, including alleged violations of
22 section 5100(c). A certified copy of the actual costs, or a good
23 faith estimate of costs signed by the Executive Officer,
24 constitute prima facie evidence of reasonable costs of
25 investigation and prosecution of the case.

26 7. Pursuant to section 118(b) of the Code, the
27 suspension, expiration, or forfeiture by operation of law of a

1 license issued by the Board shall not during any period within
2 which it may be renewed, restored, reissued or reinstated,
3 deprive the Board of its authority to institute or continue a
4 disciplinary proceeding against the licensee upon any ground
5 provided by law or to enter an order suspending or revoking the
6 license or otherwise taking disciplinary action against the
7 licensee on any such ground. Section 5070.6 of the Code provides
8 that an expired permit may be renewed at any time within five
9 years after its expiration upon compliance with certain
10 requirements.

11 CAUSES FOR DISCIPLINE

12 AUDITS OF AMERICAN CAPITAL HOLDING CORPORATION
13 AND UNION PACIFIC FIRE AND MARINE INSURANCE CO., LTD

14 8. Respondent performed an audit for American Capital
15 Holding Corporation (formerly American Entertainment Venture
16 Corp., hereinafter "American Capital") for the six month period
17 ended December 31, 1990, and for Union Pacific Fire & Marine
18 Insurance Company, Ltd. (hereinafter "Union Pacific") for the six
19 month period ended December 31, 1990. The following
20 circumstances are material to the matters alleged in this
21 accusation:

22 A. American Capital was organized under the laws of
23 the state of Nevada in August, 1983. Union Pacific was organized
24 under the laws of the Territory of the British Virgin Islands on
25 September 27, 1988, and began doing business in the United States
26 in December, 1989. American Capital acquired Union Pacific on
27 April 1, 1990.

1 B. American Capital presents its financial statements
2 on a consolidated basis, with 90% of the assets attributable to
3 Union Pacific.

4 C. With regard to certain assets presented in the
5 financial statements, the value and ownership of the assets were
6 questionable. The single largest item on both sets of financial
7 statements is Marketable Securities recorded at \$5 million. The
8 transaction is described in the notes to the financial statements
9 as a capital contribution of 5,000,000 shares of newly issued
10 preferred stock from American Capital (parent) to Union Pacific
11 (subsidiary). Union Pacific then exchanged the parent company
12 stock for the marketable securities.

13 D. The audit file contained two facsimile
14 confirmations of a \$5 million investment, both headed "Environtec
15 Inc." (Environtec is one of the investments in the marketable
16 securities portfolio). One facsimile confirms the quantity of
17 stocks and the \$5 million or greater market value of the
18 portfolio. The facsimile appears to be from a related party,
19 Allen Broughton. The other facsimile confirms the per share
20 value of the stocks in the portfolio. The faxed confirmations
21 raise questions regarding the credibility of the confirmations.
22 The materiality of these investments affects the level of
23 reliance that an auditor places on the confirmations.

24 The auditor used NASDAQ statistics to substantiate the
25 per share value of two of the stocks (that together represent 79%
26 of the \$5 million investment). The test was of little value,
27 given the thinly traded nature of the shares involved. In

1 addition, a "going concern" issue was raised in the SEC form 10-K
2 for UsAsia International Publications, Inc. (one of the
3 investments).

4 E. The agreement between American Capital and the
5 Kendrick Trust entitled "Capitalization Agreement - American
6 Capital" reflects that the marketable securities would be
7 purchased by American Capital and would be available for the
8 benefit of Union Pacific. The agreement states that American
9 Capital will issue 5,000,000 shares of its preferred stock to the
10 Hartford Investment Fund II as consideration for the marketable
11 securities, which appear to be owned by American Capital, not
12 Union Pacific.

13 F. Many documents contained in the audit files make
14 clear that Kendrick Trust and/or Allen Broughton, Trustee, are
15 related parties to the entities under audit, which raises a
16 question regarding whether the \$5 million investment was an arms-
17 length transaction.

18 G. On June 10, 1991, the California Department of
19 Insurance took administrative action regarding Union Pacific, and
20 issued an order pursuant to California Insurance Code Section
21 1765.1 to the Surplus Line Association of California not to place
22 any new or renewal business with this nonadmitted insurer. This
23 action was based in part upon Union Pacific's excessive
24 investment in corporate stock, considered hazardous because of
25 the inherent unpredictability of the market value of such stocks.
26 Applying this principle in this instance, the California
27 Department of Insurance calculated that Union Pacific exceeded

1 the limitations placed on these types of investments by
2 \$ 4,452,604.

3 9. Incorporating by reference the matters alleged in
4 paragraph 8, respondent is subject to disciplinary action under
5 Code section 5100(c) in that he was grossly negligent in the
6 performance of the audit of American Capital for the six months
7 ended December 31, 1990, which represents an extreme departure
8 from the standard of practice of public accountancy because of
9 various departures from Generally Accepted Auditing Standards
10 ("GAAS"). The departures from GAAS include, but are not limited
11 to, the following:

12 A. The audit working papers fail to document any
13 planning for the audits. (Reference AU § 311; AU § 316.16; AU §
14 339.05.)

15 B. The audit working papers fail to document the
16 auditor's understanding of internal control structure and the
17 assessed level of control risk. (Reference AU § 319; AU §
18 319.26; AU § 319.39.)

19 C. The auditor failed to perform analytical
20 procedures in the planning and overall review stages of his
21 audit. (Reference AU § 329.01; AU § 329.06; AU § 329.22.)

22 D. The auditor failed to obtain sufficient competent
23 evidential matter to afford a reasonable basis for an opinion
24 regarding the financial statements under audit. (Reference AU §
25 326; AU § 339.)

26 E. The auditor failed to exercise due professional
27 care in that he did not meet the three standards applicable to

1 field work, which require planning, evaluation of internal
2 control, and sufficient competent evidential matter. (Reference
3 AU § 230.)

4 10. Incorporating by reference the matters alleged in
5 paragraph 8, respondent is subject to disciplinary action under
6 Code section 5100(c) in that he was grossly negligent in the
7 performance of the audit of Union Pacific for the six months
8 ended December 31, 1990, which represented an extreme departure
9 from the standard of practice of public accountancy because of
10 various departures from GAAS which include, but are not limited
11 to, the following:

12 A. The audit working papers fail to document any
13 planning of the audit. (Reference AU § 311; AU § 316.16; AU §
14 339.05.)

15 B. The audit working papers fail to document the
16 auditor's understanding of internal control structure and the
17 assessed level of control risk. (Reference AU § 319; AU §
18 319.26; AU § 319.39.)

19 C. The auditor failed to perform analytical
20 procedures in the planning and overall review stages of his
21 audit. (Reference AU § 329.01; AU § 329.06; AU § 329.22).

22 D. The auditor failed to obtain sufficient competent
23 evidential matter to afford a reasonable basis for an opinion
24 regarding management's representations regarding the valuation,
25 ownership, presentation and disclosure of the \$5 million
26 investment embodied in the financial statements under audit
27 (reference AU § 326; AU § 339) in that management's assertions

1 regarding the valuation, ownership, presentation, and disclosure
2 of the \$5 million investment were not objectively evidenced in
3 the working papers. The auditor failed to consider the proper
4 regarding of the stock transaction (the exchange of equity for
5 marketable securities, valued at \$5 million) as required by
6 Generally Accepted Accounting Principles (GAAP). (Reference FASB
7 Current Text, B50.645 and APB 29; AU § 316; California Insurance
8 Code Section 1198.) The auditor failed to consider the impact of
9 transactions by apparently related parties.

10 E. The auditor failed to obtain sufficient competent
11 evidential matter to afford a reasonable basis for an opinion
12 regarding management's representations regarding premiums
13 receivable embodied in the financial statements under audit
14 (reference AU § 326; AU § 339), as follows:

15 Management's assertion that there exist \$1,437,752 in
16 premiums receivable (an amount which represents 16% of the
17 company's total assets) is not authenticated in the workpapers.
18 The file contains facsimile copies of confirmations for
19 \$1,315,312 of the total premiums receivable balance. There is no
20 authentication of the existence of agencies to collect such
21 premiums, nor do the workpapers document any consideration of
22 independence, credibility, or the possibility of irregularities.

23 F. The auditor failed to consider the entity's
24 ability to continue as a going concern. (Reference AU § 341.02,
25 and California Insurance Code Section 1198.)

26 G. The auditor failed to exercise due professional
27 care in that he did not meet the three standards applicable to

1 field work, which require planning, evaluation of internal
2 control, and sufficient competent evidential matter, and failed
3 to exercise an appropriate level of professional skepticism in
4 his conduct of the audit. (Reference AU § 230.)

5 FOR FURTHER CAUSE FOR DISCIPLINE

6 11. Respondent Russell Ponce is subject to
7 disciplinary action pursuant to Board Rule 3 in conjunction with
8 Business and Professions Code section 5100(f) in that, after
9 having been specifically and repeatedly notified, at an address
10 obtained from the United States Postal Service, of his lack of
11 compliance with the change of address requirement, respondent
12 failed to file a change of address with the Board from the date
13 of the first such notification, October 14, 1993, until July 1,
14 1994, a period of more than eight months. Respondent's failure
15 to comply with this rule in the face of repeated notifications
16 constitutes his wilful violation of a Board rule and provides
17 cause for discipline of respondent's license.

18
19 PRAYER

20 WHEREFORE, complainant requests that the Board hold a
21 hearing on the matters alleged herein, and that following said
22 hearing, the Board issue a decision:

- 23 1. Revoking or suspending Certified Public Accountant
24 Certificate Number 11995, heretofore issued to
25 respondent Russell Ponce;
26 2. Awarding the Board costs as provided by statute;
27 and

DATED: March 26, 1996

11.